

UNITED STATES DISTRICT COURT  
WESTERN DISTRICT OF WASHINGTON

AT SEATTLE

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AT SEATTLE  
CLERK U.S. DISTRICT COURT  
WESTERN DISTRICT OF WASHINGTON  
BY        DEPUTY

UNITED STATES OF AMERICA, )

Plaintiff, )

vs. )

Case CR03-11C

ABEL NGOZIBHUKWU NNABUE, )

Defendant. )

ORIGINAL

PLEA

on January 31, 2003, before the Honorable John L. Weinberg,  
United States Magistrate Judge, at the United States Courthouse,  
Seattle, Washington



CR 03 00011 #00000024

Appearances of Counsel

On Behalf of Plaintiff.

LAWRENCE LINCOLN

Assistant U.S. Attorney

On Behalf of Defendant.

OMIDARE JUPITER

As't Federal Public Defender

Sue Palmerton

Official Court Reporter

(206) 553-1899

24

1 Seattle, Washington; Friday, January 31, 2003, 10.35 a.m.

2 THE COURT: Good morning. Be seated, please. This is  
3 U.S. versus Mr. Abel Nnabue. Is that how you say your name,  
4 sir?

5 THE DEFENDANT. That's correct

6 THE COURT: Case CR03-11C. And, Mr. Jupiter, I take it  
7 you expect your client will enter a guilty plea to the charge  
8 today?

9 MR. JUPITER: That's correct, Your Honor.

10 THE COURT: Mr. Nnabue, would you stand and raise your  
11 right hand and be sworn as a witness, please.

12 (The defendant was sworn.)

13 THE COURT: Be seated, please. Mr. Jupiter, do you and  
14 Mr. Nnabue have a copy of the indictment returned in this case  
15 on January 9th of this year?

16 MR. JUPITER: That's correct, Your Honor, we do.

17 THE COURT: Mr. Nnabue, is your true name as written  
18 and spelled there on the indictment? I won't even try to say  
19 your middle name

20 THE DEFENDANT. Ngozichukwu.

21 THE COURT: The first name and middle name and last  
22 name are all correct as written in the indictment?

23 THE DEFENDANT. That's correct.

24 THE COURT: How old are you?

25 THE DEFENDANT. 28 .

1 THE COURT: How much education have you completed, sir?

2 THE DEFENDANT. Completed high school, some college.

3 THE COURT Have you ever been treated for a mental  
4 disease or disorder of any kind?

5 THE DEFENDANT: Mental disease?

6 THE COURT Ever been treated for a problem with your  
7 head, with your thinking and mental processes?

8 THE DEFENDANT: No.

9 THE COURT: Are you today under the influence of any  
10 drugs or controlled substance or alcohol?

11 THE DEFENDANT. No

12 THE COURT: Mr. Jupiter, are you aware of any facts  
13 which would raise any question about Mr. Nnabue's competence to  
14 enter a valid plea?

15 MR JUPITER: None at all, Your Honor.

16 THE COURT: All right, Mr. Lincoln, would you summarize  
17 for us what the charge is to which Mr. Nnabue would enter a  
18 guilty plea today.

19 MR LINCOLN: Yes, Your Honor. The defendant will be  
20 pleading guilty today to count 1 of the proposed indictment --  
21 I'm sorry, of the indictment which charges attempted bank fraud

22 And specifically, it charges that beginning at a time  
23 unknown, but at least in or about December of 2002, and  
24 continuing until December 12th of 2002, within this district,  
25 Mr. Nnabue and a co-defendant, Mr. Onwuharar, attempted to

1 execute a scheme and artifice to defraud Washington Mutual Bank,  
2 a financial institution as defined in Title 18, United States  
3 Code, and obtain monies and funds by credit -- and credits under  
4 the custody and control of the bank by means of false and  
5 fraudulent pretenses and representations.

6 And specifically in that count, it outlines a scheme to use  
7 counterfeit driver's licenses and unauthorized credit cards to  
8 make various purchases and to obtain money and property.

9 And specifically, on December 12th Mr. Onwuharar entered --  
10 pursuant to that plan entered a Washington Mutual Bank branch in  
11 Lynnwood and attempted to obtain \$5,000. He was rebuffed and  
12 the two of them sped away with Mr. Nnabue serving as the getaway  
13 driver.

14 This would be all in violation of Title 18, United States  
15 Code, Section 1344. Carries a maximum penalty of 30 years  
16 imprisonment and a \$1,000,000 fine.

17 THE COURT. Mr. Jupiter, do you accept that summary of  
18 the charges and possible penalties here?

19 MR. JUPITER: Yes, Your Honor.

20 THE COURT. Mr Nnabue, do you understand the charge  
21 and possibly penalties in count 1?

22 THE DEFENDANT: I do.

23 THE COURT. Mr Jupiter, I take it you're willing to  
24 waive a full and literal reading of all of count 1?

25 MR JUPITER: We waive.

1 THE COURT: Mr. Nnabue, have you discussed all of the  
2 facts relating to those charges with Mr. Jupiter, your attorney?

3 THE DEFENDANT: I have.

4 THE COURT. Are you fully satisfied with the help he's  
5 given you as your attorney in the case?

6 THE DEFENDANT. Yes.

7 THE COURT: Mr. Jupiter, would a guilty plea here be  
8 pursuant to your advice and recommendation?

9 MR. JUPITER. Yes, Your Honor.

10 THE COURT: Mr. Nnabue, your case is pending before  
11 Chief Judge John C Coughenour, and he would be the judge to  
12 impose sentence in this case if you enter a guilty plea.

13 You may enter a guilty plea in person before Chief Judge  
14 Coughenour if you wish or you may elect instead to enter your  
15 guilty plea here before myself here this morning. Either way,  
16 it would be Judge Coughenour who would impose sentence in the  
17 case. Do you understand that, sir?

18 THE DEFENDANT: Yes, I do.

19 THE COURT. Have you signed the consent form indicating  
20 that you wish to have your guilty plea entered before myself as  
21 the magistrate judge?

22 THE DEFENDANT: Yes.

23 THE COURT. Mr. Jupiter, you've discussed that with  
24 him?

25 MR. JUPITER. Yes, I have

1 THE COURT: Next, Mr. Nnabue, I'd like to go over with  
2 you the plea agreement in the case. It's important that all of  
3 us understand exactly what promises the government has made to  
4 you and what promises you've made to the government

5 The lawyers have set forth the agreement between the parties  
6 here in a written document, a plea agreement some six pages in  
7 length. It appears to have your signature.

8 Mr. Nnabue, have you read through this carefully and have  
9 you signed it, sir?

10 THE DEFENDANT. Yes, I have.

11 THE COURT: Have you discussed it fully with Mr.  
12 Jupiter, your attorney?

13 THE DEFENDANT. Yes.

14 THE COURT. Let's take a few minutes to go over it  
15 together. In the first paragraph, it indicates you understand  
16 you have a right to a trial before a jury on this charge. Also  
17 says you're willing to give up or waive your right to a trial of  
18 any kind and wish to enter a guilty plea to the charge.

19 By doing that, you'd be giving up any objection you might  
20 have to the form of the charges. Is that all what you wish to  
21 do, sir?

22 THE DEFENDANT. Yes.

23 THE COURT: Paragraph 2 lists the elements of this  
24 offense. These are things the government must prove if there  
25 were a trial in your case and they must prove each element

1 beyond a reasonable doubt.

2 First, they'd have to prove that you knowingly made up a  
3 plan or scheme to obtain money or property from the Washington  
4 Mutual Bank by means of false representations. They must also  
5 prove that the false representations were material That is,  
6 they would reasonably influence the bank to part with money or  
7 property

8 The government would have to prove at trial, also, that you  
9 acted with intent to defraud, that you did something which is a  
10 substantial step toward carrying out the plan and/or scheme.  
11 And that Washington Mutual Bank was federally insured at the  
12 time of this offense.

13 Do you understand each of the elements, Mr Nnabue?

14 THE DEFENDANT: Yes, sir.

15 THE COURT: By pleading guilty, you're giving up your  
16 right to have the government prove those beyond a reasonable  
17 doubt Do you understand?

18 THE DEFENDANT: Yes.

19 THE COURT. Paragraph 3 lists the possible penalties on  
20 the charge and Mr. Lincoln has covered those for the most part  
21 for us. Let me cover a couple of things with you.

22 First, if you're sentenced to imprisonment in the case, the  
23 court can also impose what is called a period of supervised  
24 release following your release from prison. And that can be a  
25 period of up to five years in addition to any imprisonment in

1 the case.

2 During that five-year period or whatever period the court  
3 sets for supervised release, you'd have to follow certain  
4 conditions the court would set for you. If you follow those  
5 conditions, there would be no further penalty. If you violate  
6 any of the conditions, the court can revoke your supervised  
7 release and impose additional imprisonment

8 Do you understand that, sir?

9 THE DEFENDANT. Yes.

10 THE COURT: Now, paragraph 4 of your plea agreement  
11 lists some basic rights which go with a not guilty plea. These  
12 are all rights you'd be giving up or waiving if you plead guilty  
13 to the charge.

14 Mr. Nnabue, as long as you plead not guilty, as we mentioned  
15 earlier, you have the right to a trial before a jury and you  
16 would be presumed to be innocent at your trial. The government  
17 would have the burden of proving that you were guilty. The  
18 government must prove your guilt beyond a reasonable doubt. Do  
19 you understand that?

20 THE DEFENDANT: Yes.

21 THE COURT: At a trial, you'd have a right to require  
22 the government to bring their witnesses to court. They would  
23 testify in person in your presence under oath. You'd have a  
24 right to have Mr. Jupiter, your attorney, cross-examine or ask  
25 questions of the government's witnesses.



1       You'd also have a right to call witnesses for your side of  
2 the case at the trial. And if necessary, the court would issue  
3 orders or subpoenas to bring witnesses here for your side of the  
4 case

5       You may testify yourself at your trial if you wish or you  
6 may decide not to testify and decide to remain silent. If you  
7 remained silent, the judge and the jury could not consider that  
8 silence against you in any way

9       If you're found guilty, you would have a right to appeal the  
10 finding of guilt to a higher court. You would also have the  
11 right to appeal any pretrial rulings the court might have made  
12 in your case.

13       Do you understand all of those rights?

14             THE DEFENDANT: Yes

15       THE COURT: These are all rights which go with a not  
16 guilty plea, the rights which are associated with a trial. If  
17 you plead guilty to the charge, you'd be giving up all those  
18 rights Is that what you wish to do?

19             THE DEFENDANT. Yes.

20       THE COURT: Paragraph 5 says that the U.S. Sentencing  
21 Guidelines apply in this case Judge Coughenour at the time of  
22 sentencing will determine facts about you and about your  
23 background and about this offense. He will then apply the U.S.  
24 Sentencing Guidelines, and Judge Coughenour will determine what  
25 is called a sentencing guideline range for your case. That is a

1 range for the possible imprisonment and a range for the possible  
2 fine to be imposed in the case.

3 Judge Coughenour will then determine a specific sentence  
4 which is appropriate for your case. Usually the court picks a  
5 specific sentence which is within the guideline sentencing  
6 range, but not always. Sometimes the court will go above or  
7 below the range for a specific sentence.

8 Do you understand that, sir?

9 THE DEFENDANT. Yes

10 THE COURT. Judge Coughenour might receive  
11 recommendations from Mr. Jupiter, or from Mr. Lincoln, or from  
12 our probation office or from others on sentencing matters, but  
13 he's not required to follow anyone's recommendations. Those are  
14 his decisions to make on the sentencing guideline range and also  
15 on the specific sentence. Do you understand that?

16 THE DEFENDANT. Yes

17 THE COURT. Once you enter a guilty plea, Mr. Nnabue,  
18 you will not be able to change your mind and withdraw your  
19 guilty plea solely because of the sentence imposed by the  
20 court. So, there is no changing your mind and going back. Do  
21 you understand that?

22 THE DEFENDANT. Yes.

23 THE COURT. Paragraph 6 says that no one has promised  
24 or guaranteed to you what sentence the court will impose in your  
25 case. Is that true, sir?

1 THE DEFENDANT: Yes.

2 THE COURT: In paragraph 7, you promise to make  
3 restitution. That is, to pay back the amount of the losses  
4 involved in the case. The amount that you have to pay back will  
5 be determined by the court. And the court will determine the  
6 schedule of payments by which you're required to make those  
7 payments. Do you understand that?

8 THE DEFENDANT: Yes.

9 THE COURT: While we're on that subject, Mr. Lincoln,  
10 what is the amount of restitution? Do you have a figure for  
11 that at this point?

12 MR. LINCOLN: Your Honor, at this point this was an  
13 attempted bank fraud that was not successful. At this point, we  
14 believe perhaps \$1200 in actual losses associated with the use  
15 of credit cards for which Mr. Nnabue received a benefit. That  
16 is what we would be looking to him in the nature of restitution.

17 THE COURT: So, the government will be asking the court  
18 to order him to make restitution for other frauds other than the  
19 one charged in count 1. Is that correct?

20 MR. LINCOLN: Well, there is no loss in the charge in  
21 count 1. They attempted to obtain a \$5,000 cash advance and  
22 were not able to do that. They were rebuffed at the bank. So,  
23 we're talking about other charges pursuant to the same scheme.  
24 We've associated approximately \$1200 at this point in actual  
25 losses with Mr. Nnabue, and we'll be seeking that in the nature

1 of restitution.

2 THE COURT. Okay. Mr. Jupiter, any dispute with that?

3 MR. JUPITER Your Honor, in terms of -- I believe that  
4 is the loss of purchase. I don't know, he was referring to  
5 watches that were purchases and were recovered. So, I don't  
6 know whether or not in the final result, whether or not at  
7 sentencing -- but it could be up to that amount.

8 THE COURT. Okay, Mr. Nnabue, do you understand, sir,  
9 that you could be required to make restitution for some of these  
10 other transactions even though they're not charged in the count  
11 to which you're entering a guilty plea? Do you understand  
12 that, sir?

13 THE DEFENDANT: Yes.

14 THE COURT: What those amounts would be or whether  
15 there are any such amounts will have to be determined by Judge  
16 Coughenour. He'll hear from both sides before he determines  
17 that. Do you understand?

18 THE DEFENDANT: Yes.

19 THE COURT: Paragraph 8 of your plea agreement sets  
20 forth the facts which you and the government have agreed support  
21 this charge against you. Have you read through the facts as  
22 they're stated in paragraph 8, Mr. Nnabue?

23 THE DEFENDANT. Yes.

24 THE COURT: Are those facts all true, sir?

25 THE DEFENDANT: Yes.

1 THE COURT. Did you and Mr. Onwuhara work out a scheme  
2 or a plan to defraud Washington Mutual Bank by means of false  
3 and fraudulent pretenses and representations? Is that true?

4 THE DEFENDANT Yes.

5 THE COURT: And did you do that by obtaining  
6 unauthorized credit cards in names other than your own true  
7 names and also obtaining counterfeit driver's licenses matching  
8 those names?

9 THE DEFENDANT: Yes.

10 THE COURT. Did you and Mr. Onwuhara go to the  
11 Washington Mutual Bank in Lynnwood on December 12th of 2002?

12 THE DEFENDANT: Yes.

13 THE COURT: And at that time, did Mr. Onwuhara attempt  
14 to obtain a \$5,000 cash advance using one of the fraudulent  
15 credit cards?

16 THE DEFENDANT Yes.

17 THE COURT. Did you know he was doing that?

18 THE DEFENDANT: Yes.

19 THE COURT: And were you, in fact, in the car and  
20 serving as the getaway driver if that had taken place?

21 THE DEFENDANT: Yes

22 THE COURT: All right. In paragraph 9, the government  
23 has promised not to prosecute you -- first of all, they've  
24 promised to move to dismiss the other counts of the indictment  
25 as they relate to you at the time of the sentencing.

1 They've also promised not to prosecute you for any  
2 additional offenses the government knows about at this time or  
3 that arise out of the conduct giving rise to the investigation.  
4 The government does have the right to present to the court  
5 through our probation office evidence of all relevant conduct  
6 committed by you Do you understand that?

7 THE DEFENDANT: Yes

8 THE COURT: Although the government will be moving to  
9 dismiss some of the charges in this case, you agree in paragraph  
10 9 that those charges are based on fact and that the dismissal of  
11 the charges does not provide you with a basis for any future  
12 claims as a prevailing party under the Hyde Amendment Have you  
13 agreed to that, sir?

14 THE DEFENDANT: Yes.

15 THE COURT: One of the factors Chief Judge Coughenour  
16 will consider in determining how the sentencing guidelines apply  
17 to your case, he'll consider whether you have accepted  
18 responsibility for your offense. If the court finds that you  
19 have, and if our probation office recommends you receive a  
20 benefit for acceptance of responsibility, the government has  
21 agreed they will not oppose the downward adjustment to your  
22 sentencing guideline range for that. Do you understand that?

23 THE DEFENDANT: Could you repeat that, please

24 THE COURT: If a defendant accepts responsibility, the  
25 court can lower or reduce the sentencing guideline range. I'm

1 looking at paragraph 10 of the plea agreement. And what you and  
2 the government have agreed here is that if our probation office  
3 recommends that you should get that downward adjustment for  
4 acceptance of responsibility, the government attorneys agree  
5 they will not oppose that. Do you understand?

6 THE DEFENDANT: Yes, sir.

7 THE COURT Has anyone threatened you or forced you or  
8 coerced you in any way to enter a guilty plea?

9 THE DEFENDANT: No.

10 THE COURT. Paragraph 12 of your agreement says that if  
11 the court does not accept your plea agreement for any reason or  
12 if you break any of the promises you made under the plea  
13 agreement, then the government can bring additional charges  
14 against you or bring again the charges which would be dismissed  
15 here

16 And in paragraph 12, you agree to give up any claim you  
17 might have that the new charges are not timely filed against  
18 you. In other words, you would be giving up the statute of  
19 limitations defense to the extent spelled out here in paragraph  
20 12. Do you understand that, sir?

21 THE DEFENDANT: Yes.

22 THE COURT: The government's promises here are based on  
23 your conduct up through this hearing. If after today's hearing,  
24 you do such things as obstruction of justice, or failure to  
25 appear for a court proceeding, or any new criminal conduct, or

1 any false statements you might make to law enforcement officers,  
2 or to the probation office, or to the court, then if those  
3 things happen or anything like those things, the government is  
4 free to ask the court for a sentencing enhancement or upward  
5 departure. That is a higher sentence for you Do you  
6 understand that?

7 THE DEFENDANT: Yes.

8 THE COURT. Mr. Lincoln, is that the full agreement  
9 between the parties here?

10 MR. LINCOLN: That is the complete agreement, Your  
11 Honor.

12 THE COURT: Mr. Jupiter, have we covered all the terms  
13 of the agreement?

14 MR. JUPITER. Yes, Your Honor

15 THE COURT. Mr. Nnabue, are there any other promises or  
16 different promises besides what we've talked about?

17 THE DEFENDANT: No.

18 THE COURT. Mr. Lincoln, is the government claiming any  
19 forfeiture of property in this case?

20 MR. LINCOLN: No, Your Honor, we are not.

21 THE COURT: Is there any claim that Mr. Nnabue was on a  
22 federal court bond when he committed this offense?

23 MR. LINCOLN. No, there is no claim.

24 THE COURT. Let me ask both counsel. Is there any  
25 information Mr. Nnabue was on probation or parole or supervised



1 release in any other case at the time this offense was  
2 committed?

3 MR. JUPITER: Not to my knowledge, Your Honor.

4 MR LINCOLN: Not to my knowledge, Your Honor.

5 THE COURT: Mr. Nnabue, as I recall, you are a citizen  
6 of the United States. Is that right, sir?

7 THE DEFENDANT: That's correct.

8 THE COURT: Now, if you're convicted of this offense,  
9 that would be a felony conviction. If you have a felony  
10 conviction, you will lose some valuable civil rights, which  
11 include the right to vote, the right to hold public office, the  
12 right to serve on a jury. You will also lose the right to  
13 possess a firearm at any time because you have a felony  
14 conviction. Do you understand that, sir?

15 THE DEFENDANT: Yes.

16 THE COURT: And we're ready if you are to have you  
17 enter your plea to this charge. And again, the charge is as set  
18 forth in count 1 of the indictment returned on January 9th of  
19 this year. Specifically that charges you with attempted bank  
20 fraud on or about December 12 of 2002, in violation of 18 U.S.  
21 Code, Section 1344 and Section 2. Do you understand that charge  
22 and the possibly penalties, sir?

23 THE DEFENDANT: Yes.

24 THE COURT: What is your plea to it? Is it guilty or  
25 not guilty?

1 THE DEFENDANT: Guilty.

2 THE COURT Mr. Jupiter, any reason the Court should  
3 not accept that plea?

4 MR JUPITER. None at all.

5 THE COURT: The Court finds that Mr. Nnabue is fully  
6 competent and capable of entering an informed plea. His guilty  
7 plea is knowing and voluntary and is supported by an independent  
8 basis in fact.

9 I'll therefore sign the report and recommendation concerning  
10 plea of guilty. And the clerk will provide copies of that to  
11 both counsel. Counsel, any objections to that report and  
12 recommendation are waived unless they're filed and served within  
13 ten days.

14 Subject to the court's consideration of the plea agreement  
15 under Rule 11(e)(2), I recommend the court find Mr. Nnabue  
16 guilty on count 1 and impose sentence.

17 Sentencing date?

18 THE CLERK: Sentencing is scheduled for April 11th at  
19 9:00 o'clock before Judge Coughenour.

20 THE COURT: Mr. Nnabue, you will meet with a probation  
21 officer of our court and that officer will interview you and do  
22 some investigation about your background and about the facts of  
23 this case. The probation office will then prepare a presentence  
24 report for Judge Coughenour to read before the sentencing date.  
25 You will also have a chance to read that, as will the attorneys.

1 In that report, the probation office will provide Judge  
2 Coughenour a lot of information about you and about the case.  
3 They'll also do their analysis and recommendations about how the  
4 sentencing guidelines apply in your case. Also probably make a  
5 recommendation about the appropriate sentencing guideline range  
6 and the appropriate specific sentence in your case.

7 Those are only recommendations to Judge Coughenour As I  
8 mentioned earlier, he is not required to follow those  
9 recommendations Do you understand that process?

10 THE DEFENDANT: Yes.

11 THE COURT: All right. Now, I gather, Mr. Jupiter,  
12 that the defendant is applying for release pending sentencing.  
13 Is that correct?

14 MR. JUPITER: That's correct, Your Honor.

15 THE COURT. Proceed, please.

16 MR. JUPITER: Well, pretrial services' report  
17 recommendation we agree with. This case originally came before  
18 you, Your Honor, and the government had a number of concerns and  
19 some of those concerns are still present.

20 But I think that with further investigation of this case,  
21 they have been able to determine, as Mr Lincoln mentioned  
22 during the plea agreement, that this in fact was the first time,  
23 the only set of days that Mr. Nnabue was actually traveling with  
24 someone and he himself participating and had the intent to  
25 participate in a scheme to defraud people with credit cards.

1 But his involvement I think has been determined now through  
2 investigation, his involvement was just to this one particular  
3 ins -- this one particular set of incidents coming here to  
4 Seattle, a couple of purchases were made.

5 Matter of fact, him personally there is no -- the credit  
6 cards in his possession, I think it's been determined he did not  
7 even get around yet to using them. So, while we still consider  
8 that to be serious criminal conduct, I think it does change in  
9 terms of the Court's -- the problem that pretrial services was  
10 raising with respect to his criminal -- the possibility that he  
11 perhaps may have had more involvement with these false  
12 identification cards.

13 The other thing that changes, I think, that there has been  
14 -- Mr. Nnabue, I think, after coming to understand everything  
15 involved here has a better plan for release. We have submitted  
16 a better plan for release.

17 That he would go back to Texas, continue to reside in Texas  
18 and stay with his sister there. Pretrial services has  
19 contacted her again. She is willing to do that And I think  
20 that the conditions that they set in terms of evaluation, in  
21 terms of no change of residence and his having to obviously  
22 obtain employment and submit travel documents also gives the  
23 Court assurances that he will be properly monitored while on  
24 release

25 THE COURT Does he have the resources to get back and

1 forth from Texas?

2 MR JUPITER Yes, Your Honor. I talked to his sister  
3 this morning and she said she's purchased a ticket for him to  
4 come back today if he's released.

5 THE COURT: Then what about back to court for  
6 sentencing in April and any appearances?

7 MR. JUPITER: Certainly. Yes. She works overtime as  
8 a nurse Has been a nurse for quite some time. She is also  
9 married to someone and they have the financial resources to  
10 provide for his travel.

11 Mr. Nnabue should -- has been working for years and years,  
12 has always maintained a job or a business. I think that is  
13 verified through his employment history. And I don't see where  
14 it's going to be a problem for him to get a job once he gets  
15 back to Dallas as well. So, they do have the financial  
16 resources to do this.

17 THE COURT: Mr. Lincoln

18 MR. LINCOLN: Mr. Lincoln -- excuse me.

19 THE COURT. Mr. Nnabue You're Lincoln, right?

20 MR. LINCOLN. Sorry The government is willing to go  
21 along with this disposition. We did spend the last month  
22 looking into the nature of the offense Mr. Nnabue was personally  
23 responsible for. We're convinced now it was relatively -- it  
24 resulted in relatively small amounts of losses here

25 Our concern here was that if he stayed in custody pending

1 sentencing, he might do more time than he would otherwise be  
2 required to do at the time of sentencing. And so, for those  
3 reasons, we don't oppose his being released at this time.

4 THE COURT: The other defendant is still pending trial.  
5 Is that right?

6 MR. LINCOLN: That's correct, Your Honor

7 THE COURT: And there is nothing in the plea agreement  
8 at least about any cooperation or testimony by this defendant.

9 MR. LINCOLN: Nothing in the plea agreement about that,  
10 no, Your Honor. I think it's fair to say we have a pretty  
11 strong case against the other defendant and we're still working  
12 on the possibility of him coming in and pleading

13 MR. JUPITER We've been in discussion about that, Your  
14 Honor. Obviously, we don't want to violate the court rules.  
15 But certainly if that is something that comes up later, we will  
16 be considering that.

17 THE COURT Okay. Mr. Nnabue, if the Court releases  
18 you on bond pending sentencing, do you promise that you'll make  
19 all court appearances required here and also that you'll turn  
20 yourself in to begin any sentence if the court sentences you to  
21 additional imprisonment?

22 THE DEFENDANT: Of course

23 THE COURT. Do you understand that if you willfully  
24 fail to appear, it carries up to ten years imprisonment and a  
25 fine of \$250,000 over and above any penalty in this case? Do

1 you understand that?

2 THE DEFENDANT. Yes.

3 THE COURT The conditions of your bond will be those  
4 recommended by the pretrial services officer. Let me cover with  
5 you first the standard conditions

6 You must make all your court appearances Also turn  
7 yourself in to begin your sentence if you're sentenced to more  
8 imprisonment

9 You're not to have any law violations while you're on bond  
10 from the court If you commit a federal misdemeanor offense, it  
11 can add a year of imprisonment. A new federal felony offense  
12 could add ten years of imprisonment

13 You're not to have any improper contact with anyone who  
14 might be a witness in the case or juror or judicial officer In  
15 other words, no obstruction of justice.

16 You must give -- in fact, you must reside at 1417 Paula Lane  
17 in Mesquite, Texas and at the phone number provided in the  
18 pretrial services report And you're not to change your  
19 residence without prior approval of the pretrial services office  
20 or as directed by pretrial services Do you understand that,  
21 sir?

22 THE DEFENDANT. Yes

23 THE COURT. Travel is restricted to the Northern  
24 District of Texas and Western District of Washington for court  
25 appearances.

1       You must also surrender your passport and all travel  
2 documents to the court and not apply for or obtain any new  
3 travel document without permission.

4           MR JUPITER. It is in Texas, Your Honor. As soon as  
5 he gets there, he'll be able to obtain it.

6           THE COURT: Is seven days sufficient time to get that  
7 to us?

8           MR. JUPITER: Yes, Your Honor.

9           THE COURT: Mr. Nnabue, you'll have your passport  
10 posted with our court within ten days of today, which would be  
11 February 7.

12          THE DEFENDANT: Okay.

13          THE COURT: Additional conditions of your bond You  
14 must submit to drug and alcohol testing, including urinalysis,  
15 breathalyzer, sweat patch or hand-held devices as directed by  
16 pretrial services. You are not to use, consume or possess  
17 alcohol unless it's a prescription approved by your physician  
18 and by pretrial services.

19          You must obtain an evaluation for substance abuse and  
20 alcohol abuse counseling as directed by pretrial services.

21          You must maintain employment. If you become unemployed, you  
22 must actively seek employment as directed by the pretrial  
23 services office.

24          You are not to possess any Social Security number or  
25 identification or documents in any name other than your own.



1 And to the extent that your bond conditions have costs which go  
2 with them -- for example, for some of the drug and alcohol  
3 testing -- you must pay those costs to the extent you're  
4 financially able to do so as determined by pretrial services.

5 Do you understand all those conditions, sir?

6 THE DEFENDANT: Yes, sir

7 THE COURT. You promise you'll comply with, follow all  
8 those rules?

9 THE DEFENDANT: Yes.

10 THE COURT Here is the bond form. I'd like you to  
11 read it over, discuss any questions you might have with Mr.  
12 Jupiter. When you're prepared to promise you'll comply with  
13 these, we need you to sign on the second page.

14 MR. JUPITER: Your Honor, it has in here that he must  
15 report to the office of pretrial services on Sixth Avenue. He's  
16 actually going to be reporting in Texas. I don't have a problem  
17 with it being here --

18 THE COURT: Ms. Cavendish, should he report here first  
19 and then Texas?

20 PRETRIAL SERVICES OFFICER CAVENDISH. Actually no  
21 I've given the marshals some reporting instructions for when he  
22 returns to Texas.

23 THE COURT: So he doesn't have to see them here at all?

24 MR. JUPITER: That's fine

25 THE COURT Now that we've passed on to you 10,000

1 copies of that, we can probably just ignore it and report in  
2 Texas.

3 MR. JUPITER. That's fine.

4 THE COURT: Okay The bond is signed. Anything  
5 further as to Mr. Nnabue?

6 MR. JUPITER: No, Your Honor.

7 MR LINCOLN Nothing further.

8 THE COURT: You're due before Judge Coughenour on April  
9 11th at 9:00 o'clock in the morning for sentencing, sir. We'll  
10 be in recess

11 (At 11:10, court was in recess.)

12 CERTIFICATE

13 I, Susan Palmerton, court reporter for the United States  
14 District Court in the Western District of Washington at  
15 Seattle, was present in court during the foregoing matter and  
reported said proceedings stenographically.

16 I futher certify that thereafter, I, Susan Palmerton, have  
17 caused said stenographic notes to be transcribed via computer,  
18 and that the foregoing pages are a true and accurate  
transcription to the best of my ability.

19 Dated this 31st day of January, 2003.

20   
21 \_\_\_\_\_  
22 Susan Palmerton